

After reviewing the record, considering the briefs and hearing the arguments of the parties, the Appeals Board finds as follows:

The Administrative Law Judge found that claimant was limited to a 2 percent permanent functional impairment to his left leg, a scheduled injury, as set forth in K.S.A. 44-510d(a)(16). The claimant appealed and argued that the evidentiary record supported a finding that the claimant sustained a whole body impairment as a result of his work-related accident that occurred while he was employed by the respondent on June 16, 1994. Claimant asserted that his testimony, coupled with Lawrence R. Blaty, M.D.'s testimony, established that claimant injured his low back at the same time as he severely lacerated his left leg during the June 16, 1994 accident. Claimant further argued the evidence proved a whole body impairment and that he was entitled to a work disability. Claimant further contended that the work disability should be based on the uncontradicted testimony of vocational expert Jerry Hardin's 18 percent work task loss opinion, as verified by Dr. Blaty, and a 100 percent wage loss. Claimant was not working at the time of the regular hearing. See K.S.A. 44-510e(a). Claimant asserted that the appropriate work disability should be 59 percent, found by averaging the work task loss and wage loss as required by statute. See K.S.A. 44-510e(a).

The Appeals Board finds that the Administrative Law Judge's Award should be affirmed. The evidentiary record supports his finding that the claimant's appropriate permanent partial general disability is a 2 percent loss of use to his left leg. The Administrative Law Judge appointed Paul Lesko, M.D., an orthopedic surgeon, to provide an independent medical examination of the claimant. Dr. Lesko opined that claimant had suffered a 2 percent permanent partial functional impairment to his left leg as a result of his work-related injury of June 16, 1994. Dr. Lesko further opined that claimant's low back complaints were not associated with his work-related accident. Thus, Dr. Lesko limited claimant's disability to a scheduled injury, his left leg. The Administrative Law Judge recognized that Dr. Blaty also testified in this matter and that Dr. Estivo's medical report was contained in the evidentiary record. However, the Administrative Law Judge found Dr. Lesko's testimony and opinions the most credible medical evidence and adopted his opinions.

The Appeals Board finds that the Administrative Law Judge has set out his findings of fact and conclusions of law in some detail in his Award. It is unnecessary to repeat those findings and conclusions in this Order. The findings and conclusions of the Administrative Law Judge are found to be accurate and appropriate, and we adopt those findings and conclusions as our own as if specifically set forth in this Order.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge John D. Clark dated January 9, 1996, should be, and hereby, is affirmed in all respects.

All other orders of the Administrative Law Judge are adopted by the Appeals Board.

IT IS SO ORDERED.

Dated this ____ day of May 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: David M. Bryan, Wichita, KS
Richard A. Boeckman, Great Bend, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director